



**SPECIAL CITY COUNCIL WORKSESSION
RICHFIELD MUNICIPAL CENTER, BARTHOLOMEW ROOM
MAY 10, 2016
6:00 PM**

Call to order

1. 6:00 p.m. - 6:30 p.m.
Discussion regarding the Richfield band shell (Council Memo No. 27)
2. 6:30 p.m. - 6:50 p.m.
Discussion regarding the 77th Street Underpass (Council Memo No. 26)

Adjournment

Auxiliary aids for individuals with disabilities are available upon request. Requests must be made at least 96 hours in advance to the City Clerk at 612-861-9738.



**REGULAR CITY COUNCIL MEETING
RICHFIELD MUNICIPAL CENTER, COUNCIL CHAMBERS
MAY 10, 2016
7:00 PM**

INTRODUCTORY PROCEEDINGS

Call to order

Open forum (15 minutes maximum)

Each speaker is to keep their comment period to three minutes to allow sufficient time for others. Comments are to be an opportunity to address the Council on items not on the agenda. Individuals who wish to address the Council must have registered prior to the meeting.

Pledge of Allegiance

Approval of the minutes of the (1) Special City Council Worksession of April 26, 2016; and (2) Regular City Council Meeting of April 26, 2016.

PRESENTATIONS

1. Presentation regarding National Public Works Week

COUNCIL DISCUSSION

2. Hats Off to Hometown Hits

AGENDA APPROVAL

3. Approval of the agenda.
4. **Consent Calendar contains several separate items, which are acted upon by the City Council in one motion. Once the Consent Calendar has been approved, the individual items and recommended actions have also been approved. No further Council action on these items is necessary. However, any Council Member may request that an item be removed from the Consent Calendar and placed on the regular agenda for Council discussion and action. All items listed on the Consent Calendar are recommended for approval.**

- A. Consideration of the approval of a resolution authorizing the City to affirm the monetary limits on statutory municipality tort liability.

Staff Report No. 72

- B. Consideration of the approval of a request for a Temporary On Sale Intoxicating Liquor license for the Minneapolis-Richfield American Legion Post #435, located at 6501 Portland Avenue South for their Bike Night Out event scheduled to take place on June 15, 2016.

Staff Report No. 73

- C. Consideration of the approval of a request for a new Therapeutic Massage Enterprise license for Lily & The Lotus Massage and Bodywork, LLC, located at 1300 66th Street East #102.

Staff Report No. 74

- D. Consideration of the approval of the Bureau of Criminal Apprehension's (BCA's) Master Joint Powers Agreement (JPA) with Richfield Department of Public Safety/Police for access to the Criminal Justice Data Communications Network (CJDN) and the Court Data Services Subscriber Amendment to CJDN Subscriber Agreement.

Staff Report No. 75

- E. Consideration of the approval of a resolution approving a BCA Joint Powers Agreement with the City of Richfield's Prosecuting Attorney for access to the Criminal Justice Data Communications Network.

Staff Report No. 76

- F. Consideration of the approval of two resolutions supporting grant applications to the Hennepin County Environmental Response Fund for contamination clean-up at the Lyndale Gardens project site.

Staff Report No. 77

- 5. Consideration of items, if any, removed from Consent Calendar

PROPOSED ORDINANCES

- 6. Consideration of the second reading of an ordinance amending City Code Subsection 710.29 related to water use restrictions and a resolution authorizing summary publication.

Staff Report No. 78

CITY MANAGER'S REPORT

- 7. City Manager's Report

CLAIMS AND PAYROLLS

- 8. Claims and payrolls

Open forum (15 minutes maximum)

Each speaker is to keep their comment period to three minutes to allow sufficient time for others. Comments are to be an opportunity to address the Council on items not on the agenda. Individuals who wish to address the Council must have registered prior to the meeting.

- 9. Adjournment

Auxiliary aids for individuals with disabilities are available upon request. Requests must be made at least 96 hours in advance to the City Clerk at 612-861-9738.

CITY OF RICHFIELD, MINNESOTA
Office of City Manager

May 5, 2016

Council Memorandum No. 27

The Honorable Mayor
and
Members of the City Council

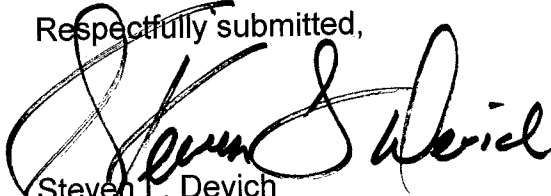
Subject: Band Shell Discussion
(Worksession Agenda Item No. 1)

Council Members:

David Butler and Jim Topitzhofer will be presenting an update on the band shell at the Council Worksession on May 10, 2016, including results of soil testing at the proposed new location for the facility (nearer to the Ice Arena) and preliminary cost estimates.

Please contact me or Jim Topitzhofer, Recreation Services Director, if you have questions.

Respectfully submitted,



Steven L. Devich
City Manager

SLD:jt
Email: Assistant City Manager
Department Directors

CITY OF RICHFIELD, MINNESOTA
Office of City Manager

May 5, 2016

Council Memorandum No. 26

The Honorable Mayor
and
Members of the City Council

Subject: 77th Street Underpass
(Worksession Agenda Item No. 2)

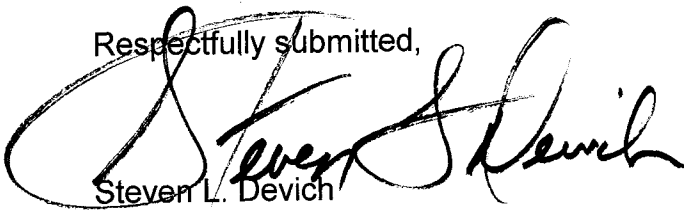
Council Members:

The goal of the May 10 worksession is for staff to present an additional alignment alternative for the future Richfield Parkway/Cedar Avenue connection to 77th Street and get City Council feedback on the options so that design of the project can move forward.

The additional alternative, which is attached for your review, was requested by City Council at the April 12, 2016 worksession. The alternative, which has some impacts to Washington Park, allows for a future alignment with 18th Ave (Richfield Parkway) while eliminating the need for a bridge on the Cedar Avenue frontage road and reducing right-of-way impacts.

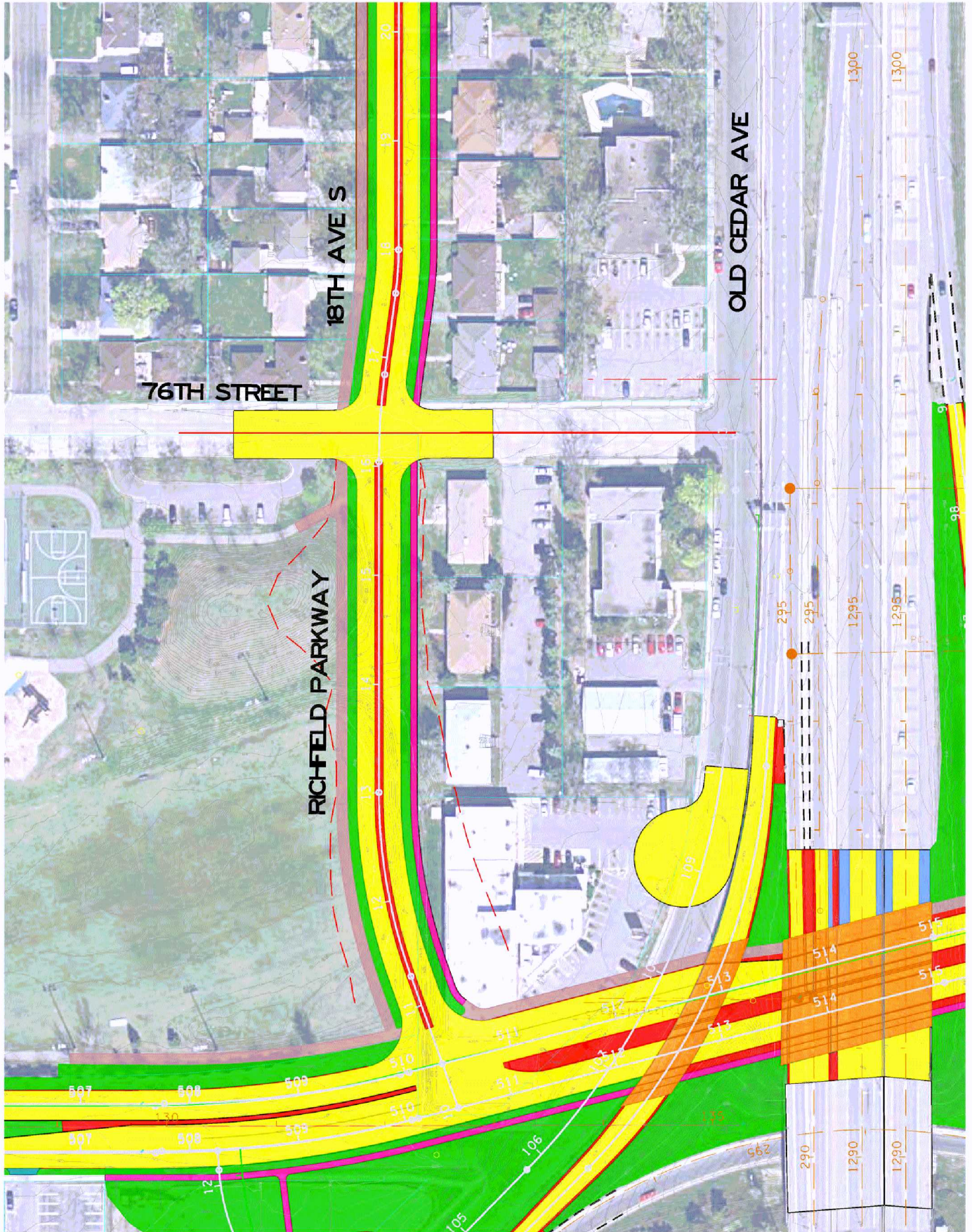
Please contact Kristin Asher, Director of Public Works, at 612-861-9795 for further discussion.

Respectfully submitted,



Steven L. Devich
City Manager

SLD:jp
Attachment
Email: Assistant City Manager
Department Directors





CITY COUNCIL MINUTES
Richfield, Minnesota
Special City Council Worksession
April 26, 2016

CALL TO ORDER

The meeting was called to order by Mayor Goettel at 6:15 p.m. in the Bartholomew Room.

Council Members Present: Debbie Goettel, Mayor; Michael Howard; Edwina Garcia; Pat Elliott; and Tom Fitzhenry.

Staff Present: Steven L. Devich, City Manager; John Stark, Community Development Director; Pam Dmytrenko, Assistant City Manager/HR Manager; and Cheryl Krumholz, Executive Coordinator.

Item #1	DISCUSSION REGARDING PARTNERSHIP ACADEMY CHARTER SCHOOL (COUNCIL MEMO NO. 25)
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Lisa Hendricks, Partnership Academy Executive Director, and Karl Jentoft, Development Consultant, presented their interest and preliminary proposal to build a new facility on a vacant piece of land at Penn Avenue and 72nd Street. The estimated timeline of completion is May or June 2018. They were bringing this to the City Council to obtain their feedback before expending time and money on fully developing their proposal.

The City Council expressed the importance of community support for the project and suggested options to involve and communicate with the neighborhood.

The City Council consensus was for Partnership Academy to proceed with their proposal.

Item #2	DISCUSSION REGARDING A NEW CITY FLAG (COUNCIL MEMO NO. 23)
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Assistant City Manager/HR Manager Dmytrenko discussed the five, new flag design renderings and requested the City Council consider selecting one.

The City Council consensus was to select the flag rendering with the solid blue background and have an additional flag that includes 'Minnesota' on it.

ADJOURNMENT

The meeting was adjourned by unanimous consent at 6:45 p.m.

Date Approved: May 10, 2016

Debbie Goettel
Mayor

Cheryl Krumholz
Executive Coordinator

Steven L. Devich
City Manager



CITY COUNCIL MEETING MINUTES

Richfield, Minnesota

Regular Meeting

April 26, 2016

CALL TO ORDER

The meeting was called to order by Mayor Goettel at 7:00 p.m. in the Council Chambers.

Council Members Present: Debbie Goettel, Mayor; Michael Howard; Pat Elliott; Edwina Garcia; and Tom Fitzhenry.

Staff Present: Steven L. Devich, City Manager; John Stark, Community Development Director; Kristin Asher, Public Works Director; Jay Henthorne, Public Safety Director; Jim Topitzhofer, Recreation Services Director; Chris Regis, Finance Manager; Karen Barton, Assistant Community Development Director; Robert Hintgen, Utilities Superintendent; Mary Tietjen, City Attorney; and Cheryl Krumholz, Executive Coordinator.

OPEN FORUM

Jean Fox, Richfield Rotary, announced "The Fight Back Project", a personal safety seminar, on May 3, 2016 co-sponsored by the Richfield Rotary and Richfield Police Department.

Nancy Rowley, 7420 Blaisdell Avenue, Intermediate School District 287 representative, expressed appreciation for the City-School partnership in completing and maintaining the new youth soccer fields at the South Education Center.

PLEDGE OF ALLEGIANCE

Mayor Goettel led the audience in the Pledge of Allegiance.

APPROVAL OF MINUTES

M/Elliott, S/Fitzhenry to approve the (1) Special Concurrent City Council and School Board Worksession of April 4, 2016; (2) Special City Council and Civil Service Commission Closed Executive Session of April 4, 2016; (3) Special Concurrent City Council, HRA and Planning Commission Worksession of April 12, 2016; (4) Special City Council Worksession of April 12, 2016; and (5) Regular City Council Meeting of April 12, 2016.

Motion carried 5-0.

Item #1

PRESENTATION BY THE RICHFIELD STEM-RDLS SCHOOL CHOIR

The City Council thanked the choir for their concert.

Item #2	PRESENTATION BY MS. XIAOLI LIU, SHANXI INTERNATIONAL CULTURAL EXCHANGE CENTER
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Ms. Liu, through an interpreter, made the presentation.

Item #3	PRESENTATION OF PROCLAMATION REGARDING EARTH DAY/ARBOR DAY
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Mayor Goettel presented the proclamation to Karen Shragg, Wood Lake Nature Center Manager.

Item #4	COUNCIL DISCUSSION <ul style="list-style-type: none">• Discussion regarding participation in the Fourth of July parade• Hats Off to Hometown Hits
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The City Council consensus was to participate in the 2016 Fourth of July parade.

Council Member Garcia reported on the following:

- Friends of Wood Lake Dinner
- Wood Lake Birdathon
- League of Women Voter member recruitment
- Hennepin County State of the County Address
- Mayor Goettel's State of the City Address on May 19 at the Municipal Center
- County Veterans' Officers Club
- Richfield Historical Society

Council Member Elliott encouraged residents to join the Fourth of July Committee and volunteer for the Open Streets event.

Council Member Howard announced the Islam 101 event presented by the Richfield Human Rights Commission and The United Methodist Church of Richfield on May 4.

Council Member Fitzhenry reminded residents about property maintenance and Tornado Awareness.

Mayor Goettel announced the opening of Wheel Fun Rentals and the Farmers' Market at Veterans Memorial Park.

Item #5	COUNCIL APPROVAL OF AGENDA
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Mayor Goettel removed and continued Item #15 to a future meeting to permit additional discussion.

M/Fitzhenry, S/Garcia to approve the agenda as amended.

Motion carried 5-0.

Item #6	CONSENT CALENDAR
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- A. Consideration of the approval of a request for a new Therapeutic Massage Enterprise license for Salon Concepts Richfield, LLC, 6525 Lyndale Avenue South S.R. No. 58
- B. Consideration of the approval of the second reading of an ordinance that makes minor changes to regulations related to accessory uses in parks S.R. No. 59

BILL NO. 2016-7

AN ORDINANCE AMENDING THE RICHFIELD CITY CODE REGULATIONS RELATED TO PERMITTED USES WITHIN PARKS

This constitutes the second reading of Bill No. 2016-7, amending the Richfield City Code Subsection 512.03 regarding regulations related to accessory uses in park, that it be published in the official newspaper, and that it be made part of these minutes.

- C. Consideration of the approval of a resolution approving a Hennepin County Cost Participation Agreement in the amount of \$1,500,000 for the acquisition of right-of-way for the 77th Street Underpass of Trunk Highway 77 Project S.R. No. 60

RESOLUTION NO. 11195

RESOLUTION AUTHORIZING THE CITY OF RICHFIELD TO ENTER INTO A COST PARTICIPATION AGREEMENT WITH HENNEPIN COUNTY FOR \$1,500,000 TO BE USED FOR RIGHT-OF-WAY ACQUISITION ON THE 77TH STREET EXTENSION AND UNDERPASS OF TRUNK HIGHWAY 77

This resolution appears as Resolution No. 11195.

- D. Consideration of the approval of the resolutions supporting the submittal of grant applications to the Metropolitan Council Metropolitan Livable Communities Tax Base Revitalization Account grant program and the Minnesota Department of Employment and Economic Development for contamination clean-up at the Lyndale Gardens site, 6400 Lyndale Avenue S.R. No. 61

RESOLUTION NO. 11196

RESOLUTION AUTHORIZING THE CITY'S SUBMITTAL OF AN APPLICATION TO THE METROPOLITAN COUNCIL TAX BASE REVITALIZATION ACCOUNT GRANT PROGRAM FOR CONTAMINATION CLEAN UP ASSOCIATED WITH THE LYNDALE GARDENS PROJECT 6400 LYNDALE AVENUE

This resolution appears as Resolution No. 11196.

RESOLUTION NO. 11197

RESOLUTION AUTHORIZING THE CITY'S SUBMITTAL OF AN APPLICATION TO THE MINNESOTA DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT GRANT PROGRAM FOR CONTAMINATION CLEAN UP ASSOCIATED WITH THE LYNDALE GARDENS PROJECT, 6400 LYNDALE AVENUE

This resolution appears as Resolution No. 11197.

M/Goettel, S/Fitzhenry to approve the Consent Calendar.

Motion carried 5-0.

Item #7	CONSIDERATION OF ITEMS, IF ANY, REMOVED FROM THE CONSENT CALENDAR
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None.

Item #8	DISCIPLINARY HEARING AND CONSIDERATION OF A RESOLUTION REGARDING CIVIL ENFORCEMENT FOR MY BURGER OPERATIONS, LLC, D/B/A MY BURGER, 6555 LYNDALE AVE. SO., THAT RECENTLY UNDERWENT AN ALCOHOL COMPLIANCE CHECK CONDUCTED BY RICHFIELD PUBLIC SAFETY STAFF, AND FAILED BY SELLING ALCOHOL TO UNDERAGE YOUTH S.R. NO. 62
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Council Member Garcia presented Staff Report No. 62.

John Abdo and Doug Preston, My Burger representatives, admitted the violation occurred and stipulated to the suspension and penalty.

M/Garcia, S/Goettel that the following resolution be adopted and that it be made part of these minutes:

RESOLUTION NO. 11198

RESOLUTION SUSPENDING THE LIQUOR LICENSE FOR MY BURGER OPERATIONS, LLC, D/B/A MY BURGER, 6555 LYNDALE AVENUE SOUTH, AND IMPOSING A CIVIL PENALTY FOR FIRST TIME ALCOHOL COMPLIANCE FAILURE

Motion carried 5-0. This resolution appears as Resolution No. 11198.

Item #9	PUBLIC HEARING REGARDING THE APPROVAL OF NEW ON SALE INTOXICATING AND SUNDAY LIQUOR LICENSES, WITH OUTSIDE SERVICE, FOR VPC RICHFIELD PIZZA, LLC D/B/A GIORDANO'S OF RICHFIELD, LOCATED AT 3000 66TH STREET WEST S.R. NO. 63
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Council Member Elliott presented Staff Report No. 63.

John Gleason, Giordano representative, discussed the proposed changes to the building.

M/Fitzhenry, S/Howard to close the public hearing.

Motion carried 5-0.

M/Elliott, S/Goettel, to approve new on-sale intoxicating and Sunday liquor licenses, with outside service, for VPC Richfield Pizza, LLC d/b/a Giordano's of Richfield, located at 3000 66th Street West.

Motion carried 5-0.

Item #10	PUBLIC HEARING AND SECOND READING OF THE TRANSITORY ORDINANCE PROVIDING FOR FUNDING FOR CERTAIN CAPITAL IMPROVEMENTS FROM THE SPECIAL REVENUE FUND S.R. NO. 64
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Council Member Howard presented Staff Report No. 46.

M/Elliott, S/Fitzhenry to close the public hearing.

Motion carried 5-0.

M/Howard, S/Goettel that this constitutes second reading of Bill no. 2016-8, Transitory Ordinance No. 19.02 providing for funding for certain capital improvements from the Special Revenue Fund, that it be published in the official newspaper, and that it be made part of these minutes.

Motion carried 5-0.

Item #11	CONSIDERATION OF THE FIRST READING OF AN ORDINANCE AMENDING CITY CODE SUBSECTION 710.29 RELATED TO WATER USE RESTRICTIONS AND SCHEDULE A SECOND READING FOR MAY 10, 2016 S.R. NO. 65
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Mayor Goettel presented Staff Report No. 65.

Council Member Elliott requested clarification in the ordinance regarding the use of a sprinkler device or outside tap.

Public Works Director Asher explained that water conservation may have a financial impact on the water rates.

The City Council requested the implementation of an odd-even watering/irrigation schedule based on the property address not be included in the proposed ordinance and be revisited in the future.

M/Goettel, S/Garcia to approve the first reading of an ordinance amending City Code Subsection 710.29 related to water use restrictions and scheduling a second reading for May 10, 2016.

Motion carried 5-0.

Item #12	CONSIDERATION OF THE SECOND READING OF AN ORDINANCE AMENDING THE ZONING DESIGNATION OF 7614 PILLSBURY AVENUE FROM INDUSTRIAL TO SINGLE-FAMILY RESIDENTIAL AND A RESOLUTION AMENDING THE COMPREHENSIVE PLAN DESIGNATION FROM MEDIUM-HIGH DENSITY RESIDENTIAL TO LOW-DENSITY RESIDENTIAL S.R. NO. 66
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Council Member Garcia presented Staff Report No. 66.

M/Garcia, S/Fitzhenry that this constitutes the second reading of Bill No. 2016-9, amending the Richfield City Code by amending the zoning designation of 7614 Pillsbury Avenue from Industrial to Single-Family Residential, that it be published in the official newspaper, and that it be made part of these minutes, and that the following resolution be adopted and that they be made part of these minutes:

RESOLUTION NO. 11199

RESOLUTION AMENDING THE CITY'S COMPREHENSIVE PLAN CHANGING THE DESIGNATION OF 7614 PILLSBURY AVENUE TO "LOW-DENSITY RESIDENTIAL"

Motion approved 5-0. This resolution appears as Resolution No. 11199.

Item #13	CONSIDERATION OF THE SECOND READING OF AN ORDINANCE AMENDING SUBSECTION 210.01 OF THE CITY CODE RELATED TO CITY COUNCIL SALARIES S.R. NO. 67
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Mayor Goettel presented Staff Report No. 67.

M/Goettel, S/Fitzhenry that this constitutes the second reading of Bill No. 2016-10, amending Subsection 210.01 of the Richfield City Code related to City Council salaries, that it be published in the official newspaper, and that it be made part of these minutes.

Motion carried 4-1. (Howard oppose)

Item #14	CONSIDERATION OF A RESOLUTION AWARDDING THE SALE OF \$3,085,000 GENERAL OBLIGATION STORM WATER REVENUE BONDS, SERIES 2016A S.R. NO. 68
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Council Member Fitzhenry presented Staff Report No. 68.

Rebecca Kurtz, Ehlers and Associates, reviewed the Standard Poor's bond rating for the City, provided a summary of the bond sale and recommended the award of sale to Stifel, Nicolaus. She also explained that the original aggregate principal amount had changed from \$3,085,000 to \$2,970,000.

M/Fitzhenry, S/Goettel that the following resolution be adopted and that it be made part of these minutes:

RESOLUTION NO. 11200

RESOLUTION AWARDDING THE SALE OF GENERAL OBLIGATION STORM WATER REVENUE BONDS, SERIES 2016A, IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,970,000; FIXING THEIR FORM AND SPECIFICATIONS; DIRECTING THEIR EXECUTION AND DELIVERY; AND PROVIDING FOR THEIR PAYMENT

Motion carried 5-0. This resolution appears as Resolution No. 11200.

Item #15	CONSIDERATION OF A RESOLUTION CALLING FOR A PUBLIC HEARING BY THE CITY COUNCIL ON THE PROPOSED ADOPTION OF A MODIFICATION TO THE REDEVELOPMENT PLAN FOR THE RICHFIELD REDEVELOPMENT PROJECT AREA; THE MODIFICATION TO THE TAX INCREMENT FINANCING PLAN FOR THE CEDAR AVENUE TAX INCREMENT FINANCING DISTRICT; AND THE PROPOSED ESTABLISHMENT OF THE CEDAR POINT II (2016-1) TAX INCREMENT FINANCING DISTRICT THEREIN AND THE ADOPTION OF THE TAX INCREMENT FINANCE PLAN THEREFOR S.R. NO. 69
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This item was removed from the agenda and continued to a future meeting.

Item #16	CONSIDERATION OF THE RICHFIELD PARKWAY SOUTH OF 66TH STREET AND NORTH OF DIAGONAL BOULEVARD S.R. NO. 70
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Council Member Howard presented Staff Report No. 70.

M/Howard, S/Elliott to approve the 18th Avenue alignment of Richfield Parkway south of 66th Street and north of Diagonal Boulevard.

Motion carried 5-0.

Item #17	CITY MANAGER'S REPORT
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City Manager Devich announced the wine tasting event at the north Lyndale Municipal Liquor Store from 4-7 p.m. today.

Item #18	CLAIMS AND PAYROLLS
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M/Fitzhenry, S/Goettel that the following claims and payrolls be approved:

U.S. Bank		04/26/16
A/P Checks: 249194-249530	\$	1,536,773.44
Payroll: 118382-118704	\$	613,157.38
TOTAL	\$	2,149,930.82

Motion carried 5-0.

OPEN FORUM

None.

Item #19	SPECIAL CITY COUNCIL CLOSED EXECUTIVE SESSION IN THE BABCOCK ROOM REGARDING THE CITY MANAGER'S ANNUAL PERFORMANCE EVALUATION
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Mayor Goettel stated the Closed Executive Session is held to conduct the City Manager's annual performance evaluation and that the City Council would return to the Council Chambers in open meeting to provide a summary review of the evaluation and consider a resolution amending the employment agreement with the City Manager.

The City Council adjourned to the Closed Executive Session in the Babcock Conference Room at 8:44 p.m.

The Closed Executive Session was called to order by Mayor Goettel at 8:50 p.m. in the Babcock Room.

Members Present: Debbie Goettel, Mayor; Michael Howard; Pat Elliott; Edwina Garcia; and Tom Fitzhenry.

Staff Present: Steven L. Devich, City Manager.

The Closed Executive Session was convened pursuant to M.S. 13D.05.

The Closed Executive Session was adjourned by unanimous consent in the Babcock Conference Room at 9:35 p.m.

Item #20	RECONVENE THE REGULAR CITY COUNCIL MEETING IN THE COUNCIL CHAMBERS
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Mayor Goettel reconvened the Regular City Council Meeting in the Council Chambers at 9:36 p.m.

Item #21	SUMMARY REVIEW OF THE CITY MANAGER'S ANNUAL PERFORMANCE EVALUATION FOR 2015 AND CONSIDERATION OF A RESOLUTION AMENDING EMPLOYMENT AGREEMENT BETWEEN CITY OF RICHFIELD AND CITY MANAGER STEVEN L. DEVICH FOR 2016 S.R. NO.71
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Mayor Goettel provided a summary review of the City Manager's annual performance evaluation.

M/Goettel, S/Howard to approve:

- Resolution No. 11202, that it be adopted and made part of these minutes; and
- Reducing the contractual obligation for the City to provide life insurance; and
- Selling back an additional 40 hours of vacation.

RESOLUTION NO. 11202

RESOLUTION AMENDING THE EMPLOYMENT AGREEMENT
BETWEEN THE CITY OF RICHFIELD AND STEVEN L. DEVICH, CITY MANAGER

Motion carried 5-0. This resolution appears as Resolution No. 11202.

Item #22	ADJOURNMENT
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The City Council Meeting was adjourned by unanimous consent at 9:40 p.m.

Date Approved: May 10, 2016

Debbie Goettel
Mayor

Cheryl Krumholz
Executive Coordinator

Steven L. Devich
City Manager



STAFF REPORT NO. 72
CITY COUNCIL MEETING
5/10/2016

REPORT PREPARED BY: Jesse Swenson, Asst. HR Manager

DEPARTMENT DIRECTOR REVIEW:

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Steven L. Devich
5/4/2016

ITEM FOR COUNCIL CONSIDERATION:

Consideration of the approval of a resolution authorizing the City to affirm the monetary limits on statutory municipality tort liability.

EXECUTIVE SUMMARY:

The City purchases its insurance from the League of Minnesota Cities Insurance Trust (LMCIT). Each year, the City must either affirm or waive its statutory limits of liability by July 1st. After reviewing cost considerations measured against potential risk, the City has, historically, affirmed the liability limits which are \$500,000 for an individual claimant and \$1,500,000 per occurrence. Staff is recommending the same course of action for the current period.

RECOMMENDED ACTION:

By Motion: Adopt a resolution authorizing the City Council to affirm the monetary limits on municipal tort liability established by Minnesota Statutes 466.04.

BASIS OF RECOMMENDATION:

A. HISTORICAL CONTEXT

A requirement of insurance coverage through the LMCIT is an annual affirmation or waiver of statutory limits of liability.

The current statutory limits of liability for Minnesota cities are \$500,000 for an individual claimant and \$1,500,000 per occurrence. Cities can waive these limits to allow an individual claimant to recover more than \$500,000, up to the \$1,500,000 per occurrence limit, if excess liability insurance is purchased. However, the cost of the excess liability insurance continues to be very expensive. An additional \$1,000,000 of coverage would cost the City approximately \$65,000 annually.

Slightly more than half of the cities in Minnesota do not waive its limits of liability.

B. POLICIES (resolutions, ordinances, regulations, statutes, etc):

- The State Statute establishes liability limits for cities and the current level is \$1,500,000, which appears to be a reasonable limit.
- Historically, the majority of municipalities in Minnesota do not waive the monetary limits on

municipality tort liability as was established by Statutes 466.04.

- The Council could waive its statutory limits in future years if a decision was made to do so.
- The Council may also wish to consider purchasing excess liability in the future. If this is the case it may be purchased at any point in the future.

C. CRITICAL TIMING ISSUES:

The City's insurance policy with the League of Minnesota Cities Insurance Trust will renew on July 1, 2016. This action must be completed on, or before that time.

D. FINANCIAL IMPACT:

The City has historically not purchased excess liability coverage because of the cost of such coverage. The annual premium for \$1 million of coverage would be between \$65,000 and \$75,000 if the City decided to waive its liability limits.

E. LEGAL CONSIDERATION:

- The tort liability limits established by Minnesota Statutes have protected cities, historically, and no Minnesota court has ever established a monetary award in excess of the statutory limits against a municipality.
- Each city must annually decide whether the city would voluntarily waive the statute for both the single claims and each occurrence limit.

ALTERNATIVE RECOMMENDATION(S):

- If the Council determines that any single claimant should receive more than the \$500,000 limit, the Council could elect to waive the statutory monetary limits.
- If the Council determines that the \$1,500,000 per occurrence limit is not adequate, the City could purchase excess liability coverage.

PRINCIPAL PARTIES EXPECTED AT MEETING:

None.

ATTACHMENTS:

Description	Type
□ Tort Liability Resolution	Resolution Letter

RESOLUTION NO.

**RESOLUTION AFFIRMING MUNICIPAL TORT LIABILITY LIMITS ESTABLISHED BY
MINNESOTA STATUTES 466.04**

WHEREAS, Minnesota Statute 466.04 provides for Municipal tort liability limits for Minnesota cities; and

WHEREAS, the League of Minnesota Cities Insurance Trust has asked that each city review the tort liability limits and determine if the respective city would choose to waive its limits; and

WHEREAS, such decision to affirm or waive the tort liability limits must be filed with the League of Minnesota Cities Insurance Trust at the insurance renewal date.

NOW, THEREFORE, BE IT RESOLVED that the City Manager is directed to report to the League of Minnesota Cities Insurance Trust that the Richfield City Council does not waive the monetary limits on the municipal tort liability established by Minnesota statutes 466.04.

Adopted by the City Council of the City of Richfield, Minnesota this 10th day of May, 2016.

Debbie Goettel, Mayor

ATTEST:

Elizabeth VanHoose, City Clerk



STAFF REPORT NO. 73
CITY COUNCIL MEETING
5/10/2016

REPORT PREPARED BY: Betsy Osborn, Support Services Manager

DEPARTMENT DIRECTOR REVIEW: Jay Henthorne, Public Safety Director
5/3/2016

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Steven L. Devich
5/4/2016

ITEM FOR COUNCIL CONSIDERATION:

Consideration of the approval of a request for a Temporary On Sale Intoxicating Liquor license for the Minneapolis-Richfield American Legion Post #435, located at 6501 Portland Avenue South for their Bike Night Out event scheduled to take place on June 15, 2016.

EXECUTIVE SUMMARY:

On April 18, 2016 the City received application materials for a Temporary On Sale Intoxicating Liquor license for the Minneapolis-Richfield American Legion Post #435, located at 6501 Portland Avenue South.

The American Legion plans to have a Bike Night Out event take place in their parking lot and serve alcohol from 3:00 p.m. to 9:00 p.m. on June 15, 2016. They will serve food indoors.

The applicant will serve alcohol in a taped off area of their parking lot and will have three security persons monitoring the area and checking ID's prior to allowing entrance into the area.

The Director of Public Safety has reviewed and approved of the license application and sees no reason it should be denied.

All required information has been provided. All licensing fees have been received.

RECOMMENDED ACTION:

By Motion: Approve the issuance of a Temporary On Sale Intoxicating Liquor license for the Minneapolis-Richfield American Legion Post #435, located at 6501 Portland Avenue South for their Bike Night Out event scheduled to take place on June 15, 2016.

BASIS OF RECOMMENDATION:

A. HISTORICAL CONTEXT

The applicant has satisfied the following requirements for the issuance of this license:

- The required licensing fee has been paid.
- Proof of liquor liability insurance has been submitted showing Integrity Mutual Insurance Company affording the coverage, including the parking lot where the event is taking place.
- Private security has been hired by the American Legion to patrol the area for this event.

B. POLICIES (resolutions, ordinances, regulations, statutes, etc):

Richfield City Code Section 1202.05 requires all applicants to comply with all of the provisions of this code, as well as the provisions of Minnesota Statue Chapter 340A.

C. CRITICAL TIMING ISSUES:

There are no critical timing issues.

D. FINANCIAL IMPACT:

The required licensing fees have been received.

E. LEGAL CONSIDERATION:

There are no legal considerations.

ALTERNATIVE RECOMMENDATION(S):

The Council could decide to deny the requested license, which would mean the applicant would not be able to serve alcohol outside to the public for this event.

PRINCIPAL PARTIES EXPECTED AT MEETING:

Jeff Husaby - Legion Manager



STAFF REPORT NO. 74
CITY COUNCIL MEETING
5/10/2016

REPORT PREPARED BY: Betsy Osborn, Support Services Manager

DEPARTMENT DIRECTOR REVIEW: Jay Henthorne, Public Safety Director
5/2/2016

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Steven L. Devich
5/4/2016

ITEM FOR COUNCIL CONSIDERATION:

Consideration of the approval of a request for a new Therapeutic Massage Enterprise license for Lily & The Lotus Massage and Bodywork, LLC, located at 1300 66th Street East #102.

EXECUTIVE SUMMARY:

On April 4, 2016, the City received an application for a new Therapeutic Massage Enterprise license for Lily & The Lotus Massage and Bodywork, LLC, located at 1300 66th Street East #102.

All required information and documents have been received. All fees have been received.

The Public Safety background investigation has been completed. The Public Safety Director has reviewed the background investigation report. None of the information in the report would cause the Public Safety Director to recommend denial of the requested license.

RECOMMENDED ACTION:

By Motion: Approve the request for a new Therapeutic Massage Enterprise license for Lily & The Lotus Massage and Bodywork, LLC, located at 1300 66th Street East #102.

BASIS OF RECOMMENDATION:

A. HISTORICAL CONTEXT

The Public Safety background investigation has been completed and reveals the following:

- The applicant has paid the required licensing fees.
- The required proof of liability insurance has been submitted showing Allied Professional Insurance Company as affording coverage.
- All real estate and personal property taxes due and payable for the premises have been paid.
- The business is owned by Laurel Jean Needham.
- A criminal background check was conducted on Laurel Needham. There is no known criminal history.
- An application for a massage therapist was also submitted by Laurel Needham. She is in good standing with the Associated Bodywork & Massage Professionals.

B. POLICIES (resolutions, ordinances, regulations, statutes, etc):

The applicant has complied with all the provisions of the application process.

C. **CRITICAL TIMING ISSUES:**

There are no critical timing issues.

D. **FINANCIAL IMPACT:**

Licensing fees have been received.

E. **LEGAL CONSIDERATION:**

There are no legal considerations.

ALTERNATIVE RECOMMENDATION(S):

Deny the request for the Therapeutic Massage Enterprise license for Lily & The Lotus Massage & Bodywork, LLC; however, Public Safety has not found any basis for denial.

PRINCIPAL PARTIES EXPECTED AT MEETING:

Laurel Needham - Owner



STAFF REPORT NO. 75
CITY COUNCIL MEETING
5/10/2016

REPORT PREPARED BY: Jay Henthorne, Director of Public Safety/Chief of Police

DEPARTMENT DIRECTOR REVIEW: Jay Henthorne, Public Safety Director
5/3/2016

OTHER DEPARTMENT REVIEW: NA

CITY MANAGER REVIEW: Steven L. Devich
5/4/2016

ITEM FOR COUNCIL CONSIDERATION:

Consideration of the approval of the Bureau of Criminal Apprehension's (BCA's) Master Joint Powers Agreement (JPA) with Richfield Department of Public Safety/Police for access to the Criminal Justice Data Communications Network (CJDN) and the Court Data Services Subscriber Amendment to CJDN Subscriber Agreement.

EXECUTIVE SUMMARY:

Minnesota State Statute §299C.46 states that the Bureau of Criminal Apprehension (BCA) must provide a criminal justice data communications network to benefit criminal justice agencies in Minnesota. The agency is authorized by law to utilize the criminal justice data communications network pursuant to the terms set out in the Joint Powers Agreement.

In addition, BCA either maintains repositories of data or has access to repositories of data that benefit criminal justice agencies in performing their duties, and the agency wants to access these data in support of its criminal justice duties.

RECOMMENDED ACTION:

By Motion: Approve the Bureau of Criminal Apprehension's (BCA's) Master Joint Powers Agreement with Richfield Department of Public Safety/Police for access to the Criminal Justice Data Communications Network (CJDN) and the Court Data Services Subscriber Amendment to CJDN Subscriber Agreement

BASIS OF RECOMMENDATION:

A. HISTORICAL CONTEXT

This agreement initially went into effect June 4, 2011, and will expire on June 4, 2016.

B. POLICIES (resolutions, ordinances, regulations, statutes, etc):

- The Department has previously been a part of a Joint Powers Agreement with the State of Minnesota, Dept. of Public Safety, Bureau of Criminal Apprehension.
- The BCA will provide Richfield Police with access to the Minnesota Criminal Justice Data Communications Network (CJDN). Access to the BCA's data is a necessary function in the daily operations of the Richfield Public Safety Department/Police Department.

C. **CRITICAL TIMING ISSUES:**

This agreement is effective on the date the BCA obtains all required signatures under Minn. Stat. § 16C.46, Subdv. 2, and expires five (5) years from the date it is effective.

D. **FINANCIAL IMPACT:**

The department agrees to pay BCA for the access to the data in the amount of \$630 quarterly or \$2,520 per year. The Richfield Department of Public Safety has funds budgeted to cover these costs.

E. **LEGAL CONSIDERATION:**

There are no legal considerations.

ALTERNATIVE RECOMMENDATION(S):

The BCA's data is a necessary part of the operations of the Richfield Department of Public Safety/Police.

PRINCIPAL PARTIES EXPECTED AT MEETING:

ATTACHMENTS:

	Description	Type
□	State of Minnesota Joint Powers Agreement Authorized Agency	Contract/Agreement
□	Court Data Services Subscriber Amendment to CJDN Subscriber Agreement	Contract/Agreement

**STATE OF MINNESOTA
JOINT POWERS AGREEMENT
AUTHORIZED AGENCY**

This agreement is between the State of Minnesota, acting through its Department of Public Safety, Bureau of Criminal Apprehension ("BCA") and the City of Richfield on behalf of its Police Department ("Agency").

Recitals

Under Minn. Stat. § 471.59, the BCA and the Agency are empowered to engage in those agreements that are necessary to exercise their powers. Under Minn. Stat. § 299C.46 the BCA must provide a criminal justice data communications network to benefit authorized agencies in Minnesota. The Agency is authorized by law to utilize the criminal justice data communications network pursuant to the terms set out in this agreement. In addition, BCA either maintains repositories of data or has access to repositories of data that benefit authorized agencies in performing their duties. Agency wants to access these data in support of its official duties.

The purpose of this Agreement is to create a method by which the Agency has access to those systems and tools for which it has eligibility, and to memorialize the requirements to obtain access and the limitations on the access.

Agreement

1 Term of Agreement

- 1.1 Effective date:** This Agreement is effective on the date the BCA obtains all required signatures under Minn. Stat. § 16C.05, subdivision 2.
- 1.2 Expiration date:** This Agreement expires five years from the date it is effective.

2 Agreement between the Parties

2.1 General access. BCA agrees to provide Agency with access to the Minnesota Criminal Justice Data Communications Network (CJDN) and those systems and tools which the Agency is authorized by law to access via the CJDN for the purposes outlined in Minn. Stat. § 299C.46.

2.2 Methods of access.

The BCA offers three (3) methods of access to its systems and tools. The methods of access are:

A. **Direct access** occurs when individual users at the Agency use Agency's equipment to access the BCA's systems and tools. This is generally accomplished by an individual user entering a query into one of BCA's systems or tools.

B. **Indirect access** occurs when individual users at the Agency go to another Agency to obtain data and information from BCA's systems and tools. This method of access generally results in the Agency with indirect access obtaining the needed data and information in a physical format like a paper report.

C. **Computer-to-computer system interface** occurs when Agency's computer exchanges data and information with BCA's computer systems and tools using an interface. Without limitation, interface types include: state message switch, web services, enterprise service bus and message queuing.

For purposes of this Agreement, Agency employees or contractors may use any of these methods to use BCA's systems and tools as described in this Agreement. Agency will select a method of access and can change the methodology following the process in Clause 2.10.

2.3 Federal systems access. In addition, pursuant to 28 CFR §20.30-38 and Minn. Stat. §299C.58, BCA may provide Agency with access to the Federal Bureau of Investigation (FBI) National Crime Information Center.

2.4 Agency policies. Both the BCA and the FBI's Criminal Justice Information Systems (FBI-CJIS) have policies, regulations and laws on access, use, audit, dissemination, hit confirmation, logging, quality assurance, screening (pre-employment), security, timeliness, training, use of the system, and validation. Agency has created its own policies to ensure that Agency's employees and contractors comply with all applicable requirements. Agency ensures this compliance through appropriate enforcement. These BCA and FBI-CJIS policies and regulations, as amended and updated from time to time, are incorporated into this Agreement by reference. The policies are available at <https://app.dps.mn.gov/cjdn>.

2.5 Agency resources. To assist Agency in complying with the federal and state requirements on access to and use of the various systems and tools, information is available at <https://sps.x.state.mn.us/sites/bcaservicecatalog/default.aspx>. Additional information on appropriate use is found in the Minnesota Bureau of Criminal Apprehension Policy on Appropriate Use of Systems and Data available at <https://dps.mn.gov/divisions/bca/bca-divisions/mnjis/Documents/BCA-Policy-on-Appropriate-Use-of-Systems-and-Data.pdf>.

2.6 Access granted.

A. Agency is granted permission to use all current and future BCA systems and tools for which Agency is eligible. Eligibility is dependent on Agency (i) satisfying all applicable federal or state statutory requirements; (ii) complying with the terms of this Agreement; and (iii) acceptance by BCA of Agency's written request for use of a specific system or tool.

B. To facilitate changes in systems and tools, Agency grants its Authorized Representative authority to make written requests for those systems and tools provided by BCA that the Agency needs to meet its criminal justice obligations and for which Agency is eligible.

2.7 Future access. On written request by Agency, BCA also may provide Agency with access to those systems or tools which may become available after the signing of this Agreement, to the extent that the access is authorized by applicable state and federal law. Agency agrees to be bound by the terms and conditions contained in this Agreement that when utilizing new systems or tools provided under this Agreement.

2.8 Limitations on access. BCA agrees that it will comply with applicable state and federal laws when making information accessible. Agency agrees that it will comply with applicable state and federal laws when accessing, entering, using, disseminating, and storing data. Each party is responsible for its own compliance with the most current applicable state and federal laws.

2.9 Supersedes prior agreements. This Agreement supersedes any and all prior agreements between the BCA and the Agency regarding access to and use of systems and tools provided by BCA.

2.10 Requirement to update information. The parties agree that if there is a change to any of the information whether required by law or this Agreement, the party will send the new information to the other party in writing within 30 days of the change. This clause does not apply to changes in systems or tools provided under this Agreement.

This requirement to give notice additionally applies to changes in the individual or organization serving a city as its prosecutor. Any change in performance of the prosecutorial function must be provided to the BCA in writing by giving notice to the Service Desk, BCA.ServiceDesk@state.mn.us.

2.11 Transaction record. The BCA creates and maintains a transaction record for each exchange of data utilizing its systems and tools. In order to meet FBI-CJIS requirements and to perform the audits described in Clause 7, there must be a method of identifying which individual users at the Agency conducted a particular transaction.

If Agency uses either direct access as described in Clause 2.2A or indirect access as described in Clause 2.2B, BCA's transaction record meets FBI-CJIS requirements.

When Agency's method of access is a computer to computer interface as described in Clause 2.2C, the Agency must

keep a transaction record sufficient to satisfy FBI-CJIS requirements and permit the audits described in Clause 7 to occur.

If an Agency accesses data from the Driver and Vehicle Services Division in the Minnesota Department of Public Safety and keeps a copy of the data, Agency must have a transaction record of all subsequent access to the data that are kept by the Agency. The transaction record must include the individual user who requested access, and the date, time and content of the request. The transaction record must also include the date, time and content of the response along with the destination to which the data were sent. The transaction record must be maintained for a minimum of six (6) years from the date the transaction occurred and must be made available to the BCA within one (1) business day of the BCA's request.

2.12 Court information access. Certain BCA systems and tools that include access to and/or submission of Court Records may only be utilized by the Agency if the Agency completes the Court Data Services Subscriber Amendment, which upon execution will be incorporated into this Agreement by reference. These BCA systems and tools are identified in the written request made by Agency under Clause 2.6 above. The Court Data Services Subscriber Amendment provides important additional terms, including but not limited to privacy (see Clause 8.2, below), fees (see Clause 3 below), and transaction records or logs, that govern Agency's access to and/or submission of the Court Records delivered through the BCA systems and tools.

2.13 Vendor personnel screening. The BCA will conduct all vendor personnel screening on behalf of Agency as is required by the FBI CJIS Security Policy. The BCA will maintain records of the federal, fingerprint-based background check on each vendor employee as well as records of the completion of the security awareness training that may be relied on by the Agency.

3 Payment

The Agency agrees to pay BCA for access to the criminal justice data communications network described in Minn. Stat. § 299C.46 as specified in this Agreement. The bills are sent quarterly for the amount of Six Hundred Thirty Dollars (\$630.00) or a total annual cost of Two Thousand Five Hundred Twenty Dollars (\$2,520.00).

Agency will identify its contact person for billing purposes, and will provide updated information to BCA's Authorized Representative within ten business days when this information changes.

If Agency chooses to execute the Court Data Services Subscriber Amendment referred to in Clause 2.12 in order to access and/or submit Court Records via BCA's systems, additional fees, if any, are addressed in that amendment.

4 Authorized Representatives

The BCA's Authorized Representative is Dana Gotz, Department of Public Safety, Bureau of Criminal Apprehension, Minnesota Justice Information Services, 1430 Maryland Avenue, St. Paul, MN 55106, 651-793-1007, or her successor.

The Agency's Authorized Representative is Chief Jay Henthorne, 6700 Portland Avenue S, Richfield, MN 55423, (612) 861-9800, or his/her successor.

5 Assignment, Amendments, Waiver, and Contract Complete

5.1 Assignment. Neither party may assign nor transfer any rights or obligations under this Agreement.

5.2 Amendments. Any amendment to this Agreement, except those described in Clauses 2.6 and 2.7 above must be in writing and will not be effective until it has been signed and approved by the same parties who signed and approved the original agreement, their successors in office, or another individual duly authorized.

5.3 Waiver. If either party fails to enforce any provision of this Agreement, that failure does not waive the provision or the right to enforce it.

5.4 Contract Complete. This Agreement contains all negotiations and agreements between the BCA and the Agency. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

6 Liability

Each party will be responsible for its own acts and behavior and the results thereof and shall not be responsible or liable for the other party's actions and consequences of those actions. The Minnesota Torts Claims Act, Minn. Stat. § 3.736 and other applicable laws govern the BCA's liability. The Minnesota Municipal Tort Claims Act, Minn. Stat. Ch. 466, governs the Agency's liability.

7 Audits

7.1 Under Minn. Stat. § 16C.05, subd. 5, the Agency's books, records, documents, internal policies and accounting procedures and practices relevant to this Agreement are subject to examination by the BCA, the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this Agreement. Under Minn. Stat. § 6.551, the State Auditor may examine the books, records, documents, and accounting procedures and practices of BCA. The examination shall be limited to the books, records, documents, and accounting procedures and practices that are relevant to this Agreement.

7.2 Under applicable state and federal law, the Agency's records are subject to examination by the BCA to ensure compliance with laws, regulations and policies about access, use, and dissemination of data.

7.3 If Agency accesses federal databases, the Agency's records are subject to examination by the FBI and Agency will cooperate with FBI examiners and make any requested data available for review and audit.

7.4 To facilitate the audits required by state and federal law, Agency is required to have an inventory of the equipment used to access the data covered by this Agreement and the physical location of each.

8 Government Data Practices

8.1 BCA and Agency. The Agency and BCA must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data accessible under this Agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Agency under this Agreement. The remedies of Minn. Stat. §§ 13.08 and 13.09 apply to the release of the data referred to in this clause by either the Agency or the BCA.

8.2 Court Records. If Agency chooses to execute the Court Data Services Subscriber Amendment referred to in Clause 2.12 in order to access and/or submit Court Records via BCA's systems, the following provisions regarding data practices also apply. The Court is not subject to Minn. Stat. Ch. 13 (see section 13.90) but is subject to the *Rules of Public Access to Records of the Judicial Branch* promulgated by the Minnesota Supreme Court. All parties acknowledge and agree that Minn. Stat. § 13.03, subdivision 4(e) requires that the BCA and the Agency comply with the *Rules of Public Access* for those data received from Court under the Court Data Services Subscriber Amendment. All parties also acknowledge and agree that the use of, access to or submission of Court Records, as that term is defined in the Court Data Services Subscriber Amendment, may be restricted by rules promulgated by the Minnesota Supreme Court, applicable state statute or federal law. All parties acknowledge and agree that these applicable restrictions must be followed in the appropriate circumstances.

9 Investigation of alleged violations; sanctions

For purposes of this clause, "Individual User" means an employee or contractor of Agency.

9.1 Investigation. Agency and BCA agree to cooperate in the investigation and possible prosecution of suspected violations of federal and state law referenced in this Agreement. Agency and BCA agree to cooperate in the investigation of suspected violations of the policies and procedures referenced in this Agreement. When BCA becomes aware that a violation may have occurred, BCA will inform Agency of the suspected violation, subject to any restrictions in applicable law. When Agency becomes aware that a violation has occurred, Agency will inform BCA subject to any restrictions in applicable law.

9.2 Sanctions Involving Only BCA Systems and Tools.

The following provisions apply to BCA systems and tools not covered by the Court Data Services Subscriber

Amendment. None of these provisions alter the Agency's internal discipline processes, including those governed by a collective bargaining agreement.

9.2.1 For BCA systems and tools that are not covered by the Court Data Services Subscriber Amendment, Agency must determine if and when an involved Individual User's access to systems or tools is to be temporarily or permanently eliminated. The decision to suspend or terminate access may be made as soon as alleged violation is discovered, after notice of an alleged violation is received, or after an investigation has occurred. Agency must report the status of the Individual User's access to BCA without delay. BCA reserves the right to make a different determination concerning an Individual User's access to systems or tools than that made by Agency and BCA's determination controls.

9.2.2 If BCA determines that Agency has jeopardized the integrity of the systems or tools covered in this Clause 9.2, BCA may temporarily stop providing some or all the systems or tools under this Agreement until the failure is remedied to the BCA's satisfaction. If Agency's failure is continuing or repeated, Clause 11.1 does not apply and BCA may terminate this Agreement immediately.

9.3 Sanctions Involving Only Court Data Services

The following provisions apply to those systems and tools covered by the Court Data Services Subscriber Amendment, if it has been signed by Agency. As part of the agreement between the Court and the BCA for the delivery of the systems and tools that are covered by the Court Data Services Subscriber Amendment, BCA is required to suspend or terminate access to or use of the systems and tools either on its own initiative or when directed by the Court. The decision to suspend or terminate access may be made as soon as an alleged violation is discovered, after notice of an alleged violation is received, or after an investigation has occurred. The decision to suspend or terminate may also be made based on a request from the Authorized Representative of Agency. The agreement further provides that only the Court has the authority to reinstate access and use.

9.3.1 Agency understands that if it has signed the Court Data Services Subscriber Amendment and if Agency's Individual Users violate the provisions of that Amendment, access and use will be suspended by BCA or Court. Agency also understands that reinstatement is only at the direction of the Court.

9.3.2 Agency further agrees that if Agency believes that one or more of its Individual Users have violated the terms of the Amendment, it will notify BCA and Court so that an investigation as described in Clause 9.1 may occur.

10 Venue

Venue for all legal proceedings involving this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

11 Termination

11.1 Termination. The BCA or the Agency may terminate this Agreement at any time, with or without cause, upon 30 days' written notice to the other party's Authorized Representative.

11.2 Termination for Insufficient Funding. Either party may immediately terminate this Agreement if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written notice to the other party's authorized representative. The Agency is not obligated to pay for any services that are provided after notice and effective date of termination. However, the BCA will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. Neither party will be assessed any penalty if the agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. Notice of the lack of funding must be provided within a reasonable time of the affected party receiving that notice.

12 Continuing obligations

The following clauses survive the expiration or cancellation of this Agreement: 6. Liability; 7. Audits; 8. Government Data Practices; 9. Investigation of alleged violations; sanctions; and 10. Venue.

The parties indicate their agreement and authority to execute this Agreement by signing below.

1. AGENCY

Name: _____
(PRINTED)

Signed: _____

Title: _____
(with delegated authority)

Date: _____

Name: _____
(PRINTED)

Signed: _____

Title: _____
(with delegated authority)

Date: _____

**2. DEPARTMENT OF PUBLIC SAFETY, BUREAU OF
CRIMINAL APPREHENSION**

Name: _____
(PRINTED)

Signed: _____

Title: _____
(with delegated authority)

Date: _____

3. COMMISSIONER OF ADMINISTRATION
delegated to Materials Management Division

By: _____

Date: _____

COURT DATA SERVICES SUBSCRIBER AMENDMENT TO CJDN SUBSCRIBER AGREEMENT

This Court Data Services Subscriber Amendment (“Subscriber Amendment”) is entered into by the State of Minnesota, acting through its Department of Public Safety, Bureau of Criminal Apprehension, (“BCA”) and the City of Richfield on behalf of its Police Department (“Agency”), and by and for the benefit of the State of Minnesota acting through its State Court Administrator’s Office (“Court”) who shall be entitled to enforce any provisions hereof through any legal action against any party.

Recitals

This Subscriber Amendment modifies and supplements the Agreement between the BCA and Agency, SWIFT Contract number 108230, of even or prior date, for Agency use of BCA systems and tools (referred to herein as “the CJDN Subscriber Agreement”). Certain BCA systems and tools that include access to and/or submission of Court Records may only be utilized by the Agency if the Agency completes this Subscriber Amendment. The Agency desires to use one or more BCA systems and tools to access and/or submit Court Records to assist the Agency in the efficient performance of its duties as required or authorized by law or court rule. Court desires to permit such access and/or submission. This Subscriber Amendment is intended to add Court as a party to the CJDN Subscriber Agreement and to create obligations by the Agency to the Court that can be enforced by the Court. It is also understood that, pursuant to the Master Joint Powers Agreement for Delivery of Court Data Services to CJDN Subscribers (“Master Authorization Agreement”) between the Court and the BCA, the BCA is authorized to sign this Subscriber Amendment on behalf of Court. Upon execution the Subscriber Amendment will be incorporated into the CJDN Subscriber Agreement by reference. The BCA, the Agency and the Court desire to amend the CJDN Subscriber Agreement as stated below.

The CJDN Subscriber Agreement is amended by the addition of the following provisions:

1. **TERM; TERMINATION; ONGOING OBLIGATIONS.** This Subscriber Amendment shall be effective on the date finally executed by all parties and shall remain in effect until expiration or termination of the CJDN Subscriber Agreement unless terminated earlier as provided in this Subscriber Amendment. Any party may terminate this Subscriber Amendment with or without cause by giving written notice to all other parties. The effective date of the termination shall be thirty days after the other party's receipt of the notice of termination, unless a later date is specified in the notice. The provisions of sections 5 through 9, 12.b., 12.c., and 15 through 24 shall survive any termination of this Subscriber Amendment as shall any other provisions which by their nature are intended or expected to survive such termination. Upon termination, the Subscriber shall perform the responsibilities set forth in paragraph 7(f) hereof.

2. **Definitions.** Unless otherwise specifically defined, each term used herein shall have the meaning assigned to such term in the CJDN Subscriber Agreement.

a. **“Authorized Court Data Services”** means Court Data Services that have been authorized for delivery to CJDN Subscribers via BCA systems and tools pursuant to an Authorization Amendment to the Joint Powers Agreement for Delivery of Court Data Services to CJDN Subscribers (“Master Authorization Agreement”) between the Court and the BCA.

b. **“Court Data Services”** means one or more of the services set forth on the Justice Agency Resource webpage of the Minnesota Judicial Branch website (for which the current address is www.courts.state.mn.us) or other location designated by the Court, as the same may be amended from time to time by the Court.

c. **“Court Records”** means all information in any form made available by the Court to Subscriber through the BCA for the purposes of carrying out this Subscriber Amendment, including:

- i. **“Court Case Information”** means any information in the Court Records that conveys information about a particular case or controversy, including without limitation Court Confidential Case Information, as defined herein.
- ii. **“Court Confidential Case Information”** means any information in the Court Records that is inaccessible to the public pursuant to the Rules of Public Access and that conveys information about a particular case or controversy.
- iii. **“Court Confidential Security and Activation Information”** means any information in the Court Records that is inaccessible to the public pursuant to the Rules of Public Access and that explains how to use or gain access to Court Data Services, including but not limited to login account names, passwords, TCP/IP addresses, Court Data Services user manuals, Court Data Services Programs, Court Data Services Databases, and other technical information.
- iv. **“Court Confidential Information”** means any information in the Court Records that is inaccessible to the public pursuant to the Rules of Public Access, including without limitation both i) Court Confidential Case Information; and ii) Court Confidential Security and Activation Information.

d. **“DCA”** shall mean the district courts of the state of Minnesota and their respective staff.

e. **“Policies & Notices”** means the policies and notices published by the Court in connection with each of its Court Data Services, on a website or other location designated by the Court, as the same may be amended from time to time by the Court. Policies & Notices for each Authorized Court Data Service identified in an approved request form under section 3, below, are hereby made part of this Subscriber Amendment by this reference and provide additional terms and conditions that govern Subscriber’s use of Court Records accessed through such services, including but not limited to provisions on access and use limitations.

f. **“Rules of Public Access”** means the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court, as the same may be amended from time to time, including without limitation lists or tables published from time to time by the Court entitled *Limits on Public Access to Case Records* or *Limits on Public Access to Administrative Records*, all of which by this reference are made a part of this Subscriber Amendment. It is the obligation of Subscriber to check from time to time for updated rules, lists, and tables and be familiar with the contents thereof. It is contemplated that such rules, lists, and tables will be posted on the Minnesota Judicial Branch website, for which the current address is www.courts.state.mn.us.

g. **“Court”** shall mean the State of Minnesota, State Court Administrator's Office.

h. **“Subscriber”** shall mean the Agency.

i. **“Subscriber Records”** means any information in any form made available by the Subscriber to the Court for the purposes of carrying out this Subscriber Amendment.

3. REQUESTS FOR AUTHORIZED COURT DATA SERVICES. Following execution of this Subscriber Amendment by all parties, Subscriber may submit to the BCA one or more separate requests for Authorized Court Data Services. The BCA is authorized in the Master Authorization Agreement to process, credential and approve such requests on behalf of Court and all such requests approved by the BCA are adopted and incorporated herein by this reference the same as if set forth verbatim herein.

a. **Activation.** Activation of the requested Authorized Court Data Service(s) shall occur promptly following approval.

b. **Rejection.** Requests may be rejected for any reason, at the discretion of the BCA and/or the Court.

c. **Requests for Termination of One or More Authorized Court Data Services.** The Subscriber may request the termination of an Authorized Court Data Services previously requested by submitting a notice to Court with a copy to the BCA. Promptly upon receipt of a request for termination of an Authorized Court Data Service, the BCA will deactivate the service requested. The termination of one or more Authorized Court Data Services does not terminate this Subscriber Amendment. Provisions for termination of this Subscriber Amendment are set forth in section 1. Upon termination of Authorized Court Data Services, the Subscriber shall perform the responsibilities set forth in paragraph 7(f) hereof.

4. SCOPE OF ACCESS TO COURT RECORDS LIMITED. Subscriber's access to and/or submission of the Court Records shall be limited to Authorized Court Data Services identified in an approved request form under section 3, above, and other Court Records necessary for Subscriber to use Authorized Court Data Services. Authorized Court Data Services shall only be used according to the instructions provided in corresponding Policies & Notices or other materials and only as necessary to assist Subscriber in the efficient performance of Subscriber's duties

required or authorized by law or court rule in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body. Subscriber's access to the Court Records for personal or non-official use is prohibited. Subscriber will not use or attempt to use Authorized Court Data Services in any manner not set forth in this Subscriber Amendment, Policies & Notices, or other Authorized Court Data Services documentation, and upon any such unauthorized use or attempted use the Court may immediately terminate this Subscriber Amendment without prior notice to Subscriber.

5. GUARANTEES OF CONFIDENTIALITY. Subscriber agrees:

a. To not disclose Court Confidential Information to any third party except where necessary to carry out the Subscriber's duties as required or authorized by law or court rule in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body.

b. To take all appropriate action, whether by instruction, agreement, or otherwise, to insure the protection, confidentiality and security of Court Confidential Information and to satisfy Subscriber's obligations under this Subscriber Amendment.

c. To limit the use of and access to Court Confidential Information to Subscriber's bona fide personnel whose use or access is necessary to effect the purposes of this Subscriber Amendment, and to advise each individual who is permitted use of and/or access to any Court Confidential Information of the restrictions upon disclosure and use contained in this Subscriber Amendment, requiring each individual who is permitted use of and/or access to Court Confidential Information to acknowledge in writing that the individual has read and understands such restrictions. Subscriber shall keep such acknowledgements on file for one year following termination of the Subscriber Amendment and/or CJDN Subscriber Agreement, whichever is longer, and shall provide the Court with access to, and copies of, such acknowledgements upon request. For purposes of this Subscriber Amendment, Subscriber's bona fide personnel shall mean individuals who are employees of Subscriber or provide services to Subscriber either on a voluntary basis or as independent contractors with Subscriber.

d. That, without limiting section 1 of this Subscriber Amendment, the obligations of Subscriber and its bona fide personnel with respect to the confidentiality and security of Court Confidential Information shall survive the termination of this Subscriber Amendment and the CJDN Subscriber Agreement and the termination of their relationship with Subscriber.

e. That, notwithstanding any federal or state law applicable to the nondisclosure obligations of Subscriber and Subscriber's bona fide personnel under this Subscriber Amendment, such obligations of Subscriber and Subscriber's bona fide personnel are founded independently on the provisions of this Subscriber Amendment.

6. APPLICABILITY TO PREVIOUSLY DISCLOSED COURT RECORDS. Subscriber acknowledges and agrees that all Authorized Court Data Services and related Court Records disclosed to Subscriber prior to the effective date of this Subscriber Amendment shall be subject to the provisions of this Subscriber Amendment.

7. LICENSE AND PROTECTION OF PROPRIETARY RIGHTS. During the term of this Subscriber Amendment, subject to the terms and conditions hereof, the Court hereby grants to Subscriber a nonexclusive, nontransferable, limited license to use Court Data Services Programs and Court Data Services Databases to access or receive the Authorized Court Data Services identified in an approved request form under section 3, above, and related Court Records. Court reserves the right to make modifications to the Authorized Court Data Services, Court Data Services Programs, and Court Data Services Databases, and related materials without notice to Subscriber. These modifications shall be treated in all respects as their previous counterparts.

a. Court Data Services Programs. Court is the copyright owner and licensor of the Court Data Services Programs. The combination of ideas, procedures, processes, systems, logic, coherence and methods of operation embodied within the Court Data Services Programs, and all information contained in documentation pertaining to the Court Data Services Programs, including but not limited to manuals, user documentation, and passwords, are trade secret information of Court and its licensors.

b. Court Data Services Databases. Court is the copyright owner and licensor of the Court Data Services Databases and of all copyrightable aspects and components thereof. All specifications and information pertaining to the Court Data Services Databases and their structure, sequence and organization, including without limitation data schemas such as the Court XML Schema, are trade secret information of Court and its licensors.

c. Marks. Subscriber shall neither have nor claim any right, title, or interest in or use of any trademark used in connection with Authorized Court Data Services, including but not limited to the marks "MNCIS" and "Odyssey."

d. Restrictions on Duplication, Disclosure, and Use. Trade secret information of Court and its licensors will be treated by Subscriber in the same manner as Court Confidential Information. In addition, Subscriber will not copy any part of the Court Data Services Programs or Court Data Services Databases, or reverse engineer or otherwise attempt to discern the source code of the Court Data Services Programs or Court Data Services Databases, or use any trademark of Court or its licensors, in any way or for any purpose not specifically and expressly authorized by this Subscriber Amendment. As used herein, "trade secret information of Court and its licensors" means any information possessed by Court which derives independent economic value from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. "Trade secret information of Court and its licensors" does not, however, include information which was known to Subscriber prior to Subscriber's receipt thereof, either directly or indirectly, from Court or its licensors, information which is independently developed by Subscriber without reference to or use of information received from Court or its licensors, or information which would not qualify as a trade secret under Minnesota law. It will not be a violation of this section 7, sub-section d, for Subscriber to make up to one copy of training materials and configuration documentation, if any, for each individual authorized to access, use, or configure Authorized Court Data Services, solely for its own use in connection with this Subscriber Amendment. Subscriber will take all steps reasonably necessary to protect the copyright, trade secret, and trademark rights of Court and its licensors and Subscriber will advise its bona fide personnel who are permitted access to any of the Court Data Services Programs and Court Data Services Databases, and trade secret information of Court and its licensors, of the restrictions upon duplication, disclosure and use contained in this Subscriber Amendment.

e. Proprietary Notices. Subscriber will not remove any copyright or proprietary notices included in and/or on the Court Data Services Programs or Court Data Services Databases, related documentation, or trade secret information of Court and its licensors, or any part thereof, made available by Court directly or through the BCA, if any, and Subscriber will include in and/or on any copy of the Court Data Services Programs or Court Data Services Databases, or trade secret information of Court and its licensors and any documents pertaining thereto, the same copyright and other proprietary notices as appear on the copies made available to Subscriber by Court directly or through the BCA, except that copyright notices shall be updated and other proprietary notices added as may be appropriate.

f. Title; Return. The Court Data Services Programs and Court Data Services Databases, and related documentation, including but not limited to training and configuration material, if any, and logon account information and passwords, if any, made available by the Court to Subscriber directly or through the BCA and all copies, including partial copies, thereof are and remain the property of the respective licensor. Except as expressly provided in section 12.b., within ten days of the effective date of termination of this Subscriber Amendment or the CJDN Subscriber Agreement or within ten days of a request for termination of Authorized Court Data Service as described in section 4, Subscriber shall either: (i) uninstall and return any and all copies of the applicable Court Data Services Programs and Court Data Services Databases, and related documentation, including but not limited to training and configuration materials, if any, and logon account information, if any; or (2) destroy the same and certify in writing to the Court that the same have been destroyed.

8. INJUNCTIVE RELIEF. Subscriber acknowledges that the Court, Court's licensors, and DCA will be irreparably harmed if Subscriber's obligations under this Subscriber Amendment are not specifically enforced and that the Court, Court's licensors, and DCA would not have an adequate remedy at law in the event of an actual or threatened violation by Subscriber of its obligations. Therefore, Subscriber agrees that the Court, Court's licensors, and DCA shall be entitled to an injunction or any appropriate decree of specific performance for any actual or threatened violations or breaches by Subscriber or its bona fide personnel without the necessity of the Court, Court's licensors, or DCA showing actual damages or that monetary damages would not afford an adequate remedy. Unless Subscriber is an office, officer, agency, department, division, or bureau of the state of Minnesota, Subscriber shall be liable to the Court, Court's licensors, and DCA for reasonable attorneys fees incurred by the Court, Court's licensors, and DCA in obtaining any relief pursuant to this Subscriber Amendment.

9. LIABILITY. Subscriber and the Court agree that, except as otherwise expressly provided herein, each party will be responsible for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of any others and the results thereof. Liability shall be governed by applicable law. Without limiting the foregoing, liability of the Court and any Subscriber that is an office, officer, agency, department, division, or bureau of the state of Minnesota shall be governed by the provisions of the Minnesota Tort Claims Act, Minnesota Statutes, section 3.376, and other applicable law. Without limiting the foregoing, if Subscriber is a political subdivision of the state of Minnesota, liability of the Subscriber shall be governed by the provisions of Minn. Stat. Ch. 466 (Tort Liability, Political Subdivisions) or other applicable law. Subscriber and Court further acknowledge that the liability, if any, of the BCA is governed by a separate agreement between the Court and the BCA dated December 13, 2010 with DPS-M -0958.

10. AVAILABILITY. Specific terms of availability shall be established by the Court and communicated to Subscriber by the Court and/or the BCA. The Court reserves the right to terminate this Subscriber Amendment immediately and/or temporarily suspend Subscriber's Authorized Court Data Services in the event the capacity of any host computer system or legislative appropriation of funds is determined solely by the Court to be insufficient to meet the computer needs of the courts served by the host computer system.

11. [reserved]

12. ADDITIONAL USER OBLIGATIONS. The obligations of the Subscriber set forth in this section are in addition to the other obligations of the Subscriber set forth elsewhere in this Subscriber Amendment.

a. Judicial Policy Statement. Subscriber agrees to comply with all policies identified in Policies & Notices applicable to Court Records accessed by Subscriber using Authorized Court Data Services. Upon failure of the Subscriber to comply with such policies, the Court shall have the option of immediately suspending the Subscriber's Authorized Court Data Services on a temporary basis and/or immediately terminating this Subscriber Amendment.

b. Access and Use; Log. Subscriber shall be responsible for all access to and use of Authorized Court Data Services and Court Records by Subscriber's bona fide personnel or by means of Subscriber's equipment or passwords, whether or not Subscriber has knowledge of or authorizes such access and use. Subscriber shall also maintain a log identifying all persons to whom Subscriber has disclosed its Court Confidential Security and Activation Information, such as user ID(s) and password(s), including the date of such disclosure. Subscriber shall maintain such logs for a minimum period of six years from the date of disclosure, and shall provide the Court with access to, and copies of, such logs upon request. The Court may conduct audits of Subscriber's logs and use of Authorized Court Data Services and Court Records from time to time. Upon Subscriber's failure to maintain such logs, to maintain accurate logs, or to promptly provide access by the Court to such logs, the Court may terminate this Subscriber Amendment without prior notice to Subscriber.

c. Personnel. Subscriber agrees to investigate, at the request of the Court and/or the BCA, allegations of misconduct pertaining to Subscriber's bona fide personnel having access to or use of Authorized Court Data Services, Court Confidential Information, or trade secret information of the Court and its licensors where such persons are alleged to have violated the provisions of this Subscriber Amendment, Policies & Notices, Judicial Branch policies, or other security requirements or laws regulating access to the Court Records.

d. Minnesota Data Practices Act Applicability. If Subscriber is a Minnesota Government entity that is subject to the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, Subscriber acknowledges and agrees that: (1) the Court is not subject to Minn. Stat. Ch. 13 (see section 13.90) but is subject to the Rules of Public Access and other rules promulgated by the Minnesota Supreme Court; (2) Minn. Stat. section 13.03, subdivision 4(e) requires that Subscriber comply with the Rules of Public Access and other rules promulgated by the Minnesota Supreme Court for access to Court Records provided via the

BCA systems and tools under this Subscriber Amendment; (3) the use of and access to Court Records may be restricted by rules promulgated by the Minnesota Supreme Court, applicable state statute or federal law; and (4) these applicable restrictions must be followed in the appropriate circumstances.

13. FEES; INVOICES. Unless the Subscriber is an office, officer, department, division, agency, or bureau of the state of Minnesota, Subscriber shall pay the fees, if any, set forth in applicable Policies & Notices, together with applicable sales, use or other taxes. Applicable monthly fees commence ten (10) days after notice of approval of the request pursuant to section 3 of this Subscriber Amendment or upon the initial Subscriber transaction as defined in the Policies & Notices, whichever occurs earlier. When fees apply, the Court shall invoice Subscriber on a monthly basis for charges incurred in the preceding month and applicable taxes, if any, and payment of all amounts shall be due upon receipt of invoice. If all amounts are not paid within 30 days of the date of the invoice, the Court may immediately cancel this Subscriber Amendment without notice to Subscriber and pursue all available legal remedies. Subscriber certifies that funds have been appropriated for the payment of charges under this Subscriber Amendment for the current fiscal year, if applicable.

14. MODIFICATION OF FEES. Court may modify the fees by amending the Policies & Notices as provided herein, and the modified fees shall be effective on the date specified in the Policies & Notices, which shall not be less than thirty days from the publication of the Policies & Notices. Subscriber shall have the option of accepting such changes or terminating this Subscriber Amendment as provided in section 1 hereof.

15. WARRANTY DISCLAIMERS.

a. WARRANTY EXCLUSIONS. EXCEPT AS SPECIFICALLY AND EXPRESSLY PROVIDED HEREIN, COURT, COURT'S LICENSORS, AND DCA MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, NOR ARE ANY WARRANTIES TO BE IMPLIED, WITH RESPECT TO THE INFORMATION, SERVICES OR COMPUTER PROGRAMS MADE AVAILABLE UNDER THIS AGREEMENT.

b. ACCURACY AND COMPLETENESS OF INFORMATION. WITHOUT LIMITING THE GENERALITY OF THE PRECEDING PARAGRAPH, COURT, COURT'S LICENSORS, AND DCA MAKE NO WARRANTIES AS TO THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED IN THE COURT RECORDS.

16. RELATIONSHIP OF THE PARTIES. Subscriber is an independent contractor and shall not be deemed for any purpose to be an employee, partner, agent or franchisee of the Court, Court's licensors, or DCA. Neither Subscriber nor the Court, Court's licensors, or DCA shall have the right nor the authority to assume, create or incur any liability or obligation of any kind, express or implied, against or in the name of or on behalf of the other.

17. NOTICE. Except as provided in section 2 regarding notices of or modifications to Authorized Court Data Services and Policies & Notices, any notice to Court or Subscriber

hereunder shall be deemed to have been received when personally delivered in writing or seventy-two (72) hours after it has been deposited in the United States mail, first class, proper postage prepaid, addressed to the party to whom it is intended at the address set forth on page one of this Agreement or at such other address of which notice has been given in accordance herewith.

18. NON-WAIVER. The failure by any party at any time to enforce any of the provisions of this Subscriber Amendment or any right or remedy available hereunder or at law or in equity, or to exercise any option herein provided, shall not constitute a waiver of such provision, remedy or option or in any way affect the validity of this Subscriber Amendment. The waiver of any default by either Party shall not be deemed a continuing waiver, but shall apply solely to the instance to which such waiver is directed.

19. FORCE MAJEURE. Neither Subscriber nor Court shall be responsible for failure or delay in the performance of their respective obligations hereunder caused by acts beyond their reasonable control.

20. SEVERABILITY. Every provision of this Subscriber Amendment shall be construed, to the extent possible, so as to be valid and enforceable. If any provision of this Subscriber Amendment so construed is held by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, such provision shall be deemed severed from this Subscriber Amendment, and all other provisions shall remain in full force and effect.

21. ASSIGNMENT AND BINDING EFFECT. Except as otherwise expressly permitted herein, neither Subscriber nor Court may assign, delegate and/or otherwise transfer this Subscriber Amendment or any of its rights or obligations hereunder without the prior written consent of the other. This Subscriber Amendment shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns, including any other legal entity into, by or with which Subscriber may be merged, acquired or consolidated.

22. GOVERNING LAW. This Subscriber Amendment shall in all respects be governed by and interpreted, construed and enforced in accordance with the laws of the United States and of the State of Minnesota.

23. VENUE AND JURISDICTION. Any action arising out of or relating to this Subscriber Amendment, its performance, enforcement or breach will be venued in a state or federal court situated within the State of Minnesota. Subscriber hereby irrevocably consents and submits itself to the personal jurisdiction of said courts for that purpose.

24. INTEGRATION. This Subscriber Amendment contains all negotiations and agreements between the parties. No other understanding regarding this Subscriber Amendment, whether written or oral, may be used to bind either party, provided that all terms and conditions of the CJDN Subscriber Agreement and all previous amendments remain in full force and effect except as supplemented or modified by this Subscriber Amendment.

IN WITNESS WHEREOF, the Parties have, by their duly authorized officers, executed this Subscriber Amendment in duplicate, intending to be bound thereby.

1. SUBSCRIBER (AGENCY)

Subscriber must attach written verification of authority to sign on behalf of and bind the entity, such as an opinion of counsel or resolution.

Name: _____
(PRINTED)

Signed: _____

Title: _____
(with delegated authority)

Date: _____

Name: _____
(PRINTED)

Signed: _____

Title: _____
(with delegated authority)

Date: _____

2. DEPARTMENT OF PUBLIC SAFETY, BUREAU OF CRIMINAL APPREHENSION

Name: _____
(PRINTED)

Signed: _____

Title: _____
(with delegated authority)

Date: _____

3. COMMISSIONER OF ADMINISTRATION delegated to Materials Management Division

By: _____

Date: _____

4. COURTS

Authority granted to Bureau of Criminal Apprehension

Name: _____
(PRINTED)

Signed: _____

Title: _____
(with authorized authority)

Date: _____



STAFF REPORT NO. 76
CITY COUNCIL MEETING
5/10/2016

REPORT PREPARED BY: Jay Henthorne, Director of Public Safety/Chief of Police

DEPARTMENT DIRECTOR REVIEW: Jay Henthorne, Public Safety Director
5/3/2016

OTHER DEPARTMENT REVIEW: NA

CITY MANAGER REVIEW: Steven L. Devich
5/4/2016

ITEM FOR COUNCIL CONSIDERATION:

Consideration of the approval of a resolution approving a BCA Joint Powers Agreement with the City of Richfield's Prosecuting Attorney for access to the Criminal Justice Data Communications Network.

EXECUTIVE SUMMARY:

Under Minnesota Statute § 471.59, The BCA and the City of Richfield City Prosecutor are empowered to engage in such agreements as are necessary to exercise their powers. Under Minnesota Statute § 299C.46 the BCA must provide a criminal justice data communications network to benefit criminal justice agencies in Minnesota. The purpose of this agreement is to create a method by which the Department, and specifically the City Attorney has access to those systems and tools for which it has eligibility, and to memorialize the requirements to obtain access and the limitations on the access. The current agreement expires on June 4, 2016.

RECOMMENDED ACTION:

By Motion: Approve the resolution allowing an agreement with the State of Minnesota, Bureau of Criminal Apprehension and the City of Richfield on behalf of it's Prosecuting Attorney to receive justice data communications network information in support of its criminal justice duties.

BASIS OF RECOMMENDATION:

A. HISTORICAL CONTEXT

This agreement initially went into effect June 4, 2011, and will expire on June 4, 2016.

B. POLICIES (resolutions, ordinances, regulations, statutes, etc):

- The Bureau of Criminal Apprehension (BCA) must have an agreement with the Department and City Attorney in order to provide the services as directed by Minnesota Statute § 299C.46.
- The agreement will provide the City Attorney access to the Minnesota Criminal Justice Data Communications Network (CJDN).

C. CRITICAL TIMING ISSUES:

This agreement becomes effective on the date the BCA obtains all required signatures under Minn. Stat. § 16C.05, subdivision 2. The agreement expires five years from the date it is effective.

D. FINANCIAL IMPACT:

There is no financial impact.

E. **LEGAL CONSIDERATION:**

There are no legal considerations.

ALTERNATIVE RECOMMENDATION(S):

The criminal justice data is necessary for the performance of the prosecution duties of the City Attorney.

PRINCIPAL PARTIES EXPECTED AT MEETING:

None

ATTACHMENTS:

Description	Type
□ Resolution approving Joint Powers Agreement with the City Attorney	Resolution Letter

RESOLUTION NO.

RESOLUTION AUTHORIZING APPROVING STATE OF MINNESOTA JOINT POWERS AGREEMENTS WITH THE CITY OF RICHFIELD ON BEHALF OF ITS CITY ATTORNEY AND POLICE DEPARTMENT

WHEREAS, the City of Richfield on behalf of it Prosecuting Attorney and Police Department desires to enter into Joint Powers Agreements with the State of Minnesota, Department of Public Safety, Bureau of Criminal Apprehension to use systems and tools available over the State's criminal justice data communications network for which the City of is eligible. The Joint Powers Agreements further provide the City with the ability to add, modify and delete connectivity, systems and tools over the five year life of the agreement and obligates the City to pay the costs for the network connection.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Richfield, Minnesota as follows:

1. That the State of Minnesota Joint Powers Agreements by and between the State of Minnesota acting through its Department of Public Safety, Bureau of Criminal Apprehension and the City of Richfield on behalf of its Prosecuting Attorney and Police Department, are hereby approved. Copies of the two Joint Powers Agreements are attached to this Resolution and made a part of it.

2. That Chief Jay Henthorne, or his successor, is designated the Authorized Representative for the Police Department. The Authorized Representative is also authorized to sign any subsequent amendment or agreement that may be required by the State of Minnesota to maintain the City's connection to the systems and tools offered by the State.

To assist the Authorized Representative with the administration of the agreement, Deb Erickson, Records Management Supervisor, or her successor, is appointed as the Authorized Representative's designee.

3. That the Attorney Martin Costello, or his successor, is designated the Authorized Representative for the Prosecuting Attorney. The Authorized Representative is also authorized to sign any subsequent amendment or agreement that may be required by the State of Minnesota to maintain the City's connection to the systems and tools offered by the State.

4. That Debbie Goettel, the Mayor for the City of Richfield, and Elizabeth VanHoose, the City Clerk, are authorized to sign the State of Minnesota Joint Powers Agreements.

Passed and Adopted by the City Council of the City of Richfield, Minnesota this 10th day of May, 2016.

Debbie Goettel, Mayor

ATTEST:

Elizabeth VanHoose, City Clerk



STAFF REPORT NO. 77
CITY COUNCIL MEETING
5/10/2016

REPORT PREPARED BY: Karen Barton, Community Development Assistant Director

DEPARTMENT DIRECTOR REVIEW: John Stark, Community Development Director
5/3/2016

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Steven L. Devich
5/4/2016

ITEM FOR COUNCIL CONSIDERATION:

Consideration of the approval of two resolutions supporting grant applications to the Hennepin County Environmental Response Fund for contamination clean-up at the Lyndale Gardens project site.

EXECUTIVE SUMMARY:

The Cornerstone Group (Developer) purchased the former Lyndale Garden Center property, located at 6400 Lyndale Avenue in November of 2011. The Developer is proposing to develop the property with multi-family rental housing and retail/commercial uses.

The project is proposed to construct approximately 160 multi-family rental housing units and will incorporate a number of quasi-public shoreline improvements, including a public performance stage, an outdoor plaza, an interactive water feature, outdoor kitchen/pizza oven, community gardens and trail connections throughout the site. In July 2012, the City received a \$1,500,000 grant on behalf of the Developer from The Metropolitan Council to create the shoreline improvements and park connections.

In preparation for the construction of these improvements, the Developer is applying for two contamination clean-up grants, one for the multi-family housing area and one for the shoreline improvements, through Hennepin County to clean up soil contamination on the site.

As part of the application process, Hennepin County requires the City to pass resolutions supporting the clean-up and the grant applications.

The shoreline improvements grant would be awarded directly to the Developer and the City would have no liability in repayment should the project fail to meet the grant requirements. The residential development grant would be awarded to the City, and as such, the City would be liable for repayment in the event the project failed to meet the grant requirements. While this may seem counter-intuitive (for the City grant to apply to the housing area and the Developer grant to apply to the shoreland area), it is simply a function of differing rules for different funding sources.

In an effort to mitigate any potential liability to the City should the residential development grant be awarded, staff would not execute the grant agreement until land-use approvals are obtained, and reimbursement of grant-eligible expenses will not be authorized prior to building permits being issued for the project.

Ultimately, the clean-up of this site will help to facilitate further development to occur; regardless of the specific proposal or involvement of any one developer.

RECOMMENDED ACTION:

By Motion: Approve the resolutions supporting the submittal of grant applications to the Hennepin County Environmental Response Fund for contamination clean-up for the Lyndale Gardens project.

BASIS OF RECOMMENDATION:

A. HISTORICAL CONTEXT

- The Developer applied for and received land-use approvals in 2013 to construct a mixed-use development on the property.
- In December 2015 the land-use approvals expired.
- The Developer has submitted land-use approvals for the shoreline improvement area and is intending to submit for land-use approvals for the remainder of the development later this month.
- The Developer is proposing to construct a mixed-use development that will include multi-family rental housing and retail/commercial uses, as well as the shoreline improvements funded by the Met Council Transit Oriented Development (TOD) grant.

B. POLICIES (resolutions, ordinances, regulations, statutes, etc):

It is the City's policy to facilitate clean-up of contaminated (brownfield) properties as practicable.

C. CRITICAL TIMING ISSUES:

- The Developer wishes to begin construction on the shoreline improvements and the multi-family housing this year.
- The Met Council shoreline improvements grant is set to expire April 30, 2017.

D. FINANCIAL IMPACT:

- The Hennepin County Environmental Response Fund grant for the shoreline improvements would be awarded directly to the Developer; the City would not be a party to the grant and would have no liability in repayment of the grant should it be required.
- The Hennepin County Environmental Response Fund grant for the residential development would be awarded to the City; the City would be liable for repayment of the grant funds should the project fail to meet the grant requirements. City Staff will not execute the grant agreement prior to the issuance of land-use approvals and reimbursement of grant eligible expenses will not be authorized prior to the issuance of building permits.
- The Developer will be requesting \$117,436 in grant funds for the residential property clean-up and \$115,400 in grant funds for the shoreline improvements area clean-up.

E. LEGAL CONSIDERATION:

None

ALTERNATIVE RECOMMENDATION(S):

Do not approve the resolutions.

PRINCIPAL PARTIES EXPECTED AT MEETING:

None

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Lyndale Gardens Hennepin County ERF Grant Resolution - Shoreline	Resolution Letter
<input type="checkbox"/> Lyndale Gardens Hennepin County ERF Grant Resolution - Residential	Resolution Letter

RESOLUTION NO.

**RESOLUTION SUPPORTING THE SUBMITTAL OF AN APPLICATION TO
HENNEPIN COUNTY FOR ENVIRONMENTAL RESPONSE FUNDS FOR THE
LYNDALE GARDENS SHORELINE DEVELOPMENT PROJECT**

WHEREAS, the City had identified the property at 6400 Lyndale Avenue (former Lyndale Garden Center) for redevelopment as part of the Lakes at Lyndale redevelopment master plan area; and

WHEREAS, The Cornerstone Group d/b/a Lyndale Gardens LLC has proposed a shoreline development project at 6400 Lyndale Avenue for redevelopment; and

WHEREAS, Investigation of the site has determined contamination exists in the soil; and

WHEREAS, the City approves participation in this program to facilitate the clean-up of the soils in the project area; and

WHEREAS, the City recognizes the need for, and benefit of, contamination clean-up as part of this proposed development.

NOW, THEREFORE BE IT RESOLVED, that the City of Richfield approves the Lyndale Gardens Shoreline Development contamination clean-up project, for which an Environmental Response Fund grant application is being submitted to the Hennepin County Department of Environmental Services on May 2, 2016, by Lyndale Gardens LLC.

Adopted by the City Council of the City of Richfield, Minnesota this 10th day of May, 2016.

Debbie Goettel, Mayor

ATTEST:

Elizabeth VanHoose, City Clerk

RESOLUTION NO.

**RESOLUTION SUPPORTING THE SUBMITTAL OF AN APPLICATION TO
HENNEPIN COUNTY FOR ENVIRONMENTAL RESPONSE FUNDS FOR THE
LYNDALE GARDENS RESIDENTIAL DEVELOPMENT PROJECT**

WHEREAS, the City had identified the property at 6400 Lyndale Avenue (former Lyndale Garden Center) for redevelopment as part of the Lakes at Lyndale redevelopment master plan area; and

WHEREAS, The Cornerstone Group d/b/a Lyndale Gardens LLC has proposed a residential development project at 6400 Lyndale Avenue for redevelopment; and

WHEREAS, Investigation of the site has determined contamination exists in the soil; and

WHEREAS, the City approves participation in this program to facilitate the clean-up of the soils in the project area; and

WHEREAS, the City recognizes the need for, and benefit of, contamination clean-up as part of this proposed development.

NOW, THEREFORE BE IT RESOLVED, that the City of Richfield approves the Lyndale Gardens Residential Development contamination clean-up project, for which an Environmental Response Fund grant application is being submitted to the Hennepin County Department of Environmental Services on May 2, 2016, by the City of Richfield on behalf of the Cornerstone Group d/b/a Lyndale Gardens LLC.

Adopted by the City Council of the City of Richfield, Minnesota this 10th day of May, 2016.

Debbie Goettel, Mayor

ATTEST:

Elizabeth VanHoose, City Clerk



STAFF REPORT NO. 78
CITY COUNCIL MEETING
5/10/2016

REPORT PREPARED BY: Jared Voto, Administrative Aide/Analyst

DEPARTMENT DIRECTOR REVIEW: Kristin Asher, Public Works Director
5/2/2016

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Steven L. Devich
5/4/2016

ITEM FOR COUNCIL CONSIDERATION:

Consideration of the second reading of an ordinance amending City Code Subsection 710.29 related to water use restrictions and a resolution authorizing summary publication.

EXECUTIVE SUMMARY:

The Minnesota Department of Natural Resources (DNR) encourages cities to implement best practices in water conservation for the metro water supply. The DNR has highlighted minimizing summer peak demand on the water supply as a best practice for conservation, which includes:

- Prohibiting watering/irrigation during the day (between approximately 11:00 AM and 4:00 PM), which promotes effective watering habits and reduces water loss due to evaporation; and,
- Requiring a rain sensor device on newly installed, or modified, automatic or underground sprinkler systems, so systems do not needlessly run during periods of rain.

Staff will notify residents through water bill inserts and social media posts. A webpage will also be published on the City's website outlining these new measures required for water conservation.

RECOMMENDED ACTION:

By Motion:

- Approve the second reading of an ordinance amending City Code Subsection 710.29 related to water use restrictions.
- Approve the resolution authorizing summary publication of an ordinance amendment to Subsection 710.29 of the Richfield City Code pertaining to water use restrictions.

BASIS OF RECOMMENDATION:

A. HISTORICAL CONTEXT

- City Council approved the first reading of the ordinance on April 26, 2016.
- Many cities have ordinances that have all or some of these best practices, including, but not limited to:
 - Burnsville
 - Chanhassan
 - Eagan

- Edina
- Inver Grove Heights
- Lakeville
- Woodbury

B. POLICIES (resolutions, ordinances, regulations, statutes, etc):

- The City Charter requires a first and second reading of ordinances.
- A public hearing is not required unless a separate statute, charter provision or ordinance requires it.

C. CRITICAL TIMING ISSUES:

Approval at this meeting will provide that this ordinance update will be implemented before the summer peak demand season begins.

D. FINANCIAL IMPACT:

Staff does not anticipate these water restrictions will have a financial impact on water operations.

E. LEGAL CONSIDERATION:

The City Attorney has reviewed the proposed ordinance and will be available to answer questions.

ALTERNATIVE RECOMMENDATION(S):

None

PRINCIPAL PARTIES EXPECTED AT MEETING:

None

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Ordinance	Ordinance
<input type="checkbox"/> Resolution	Resolution Letter

BILL NO. 2016-

**AN ORDINANCE AMENDING SUBSECTION 710.29 RICHFIELD CITY
CODE PERTAINING TO WATER USE RESTRICTIONS**

THE CITY OF RICHFIELD DOES ORDAIN:

SECTION 1. Subsection 710.29 of the Richfield City Code is amended as follows:

710.29. - ~~Restricted hours for use of water supply.~~ Water use restrictions.

~~Whenever the Council determines that a shortage of water supply threatens the City, it may, by resolution, limit the times and hours during which water may be used from the City water supply system for lawn and garden sprinkling, irrigation, car washing, air conditioning or other uses specified therein; a copy of said resolution shall thereupon be mailed to each water customer. two (2) days after the mailing of the resolution any water customer who causes or permits water to be used in violation of the provisions of said resolution shall be charged \$5.00 for each day of a violation, which charge shall be added to his next water bill; continued violation is hereby prohibited and cause for discontinuance of water service.~~

Subdivision 1. Permanent Restrictions on Sprinkling. The following regulations shall apply annually from May 1 to September 30:

- (a) No lawn or garden sprinkling or other irrigation shall occur between the hours of eleven o'clock (11:00) A.M. and four o'clock (4:00) P.M. daily.
- (b) These permanent restrictions on sprinkling shall not apply to the watering of new sod or seed within thirty (30) days of installation; new landscaping; or any other plant materials that require daily watering, including, but not limited to athletic fields with special soil conditions, plantings in pots and baskets, and vegetable gardens.
- (c) Property owners installing an automatic or underground irrigation system are required to install a rain sensor device. Property owners who are improving or extending an existing irrigation system and where such improvements require a plumbing permit, must install a rain sensor device at the time of such improvements.

Subd. 2. Water Emergency. The City Council may declare, by resolution, a water emergency within the city. In case of emergency, the City Manager may declare a water emergency and institute restrictions without Council resolution; provided that such determination and restrictions shall only be effective until the City Manager determines that the emergency has ended or the next council meeting, whichever occurs first. Depending on the cause and severity of the emergency, the City Manager may place additional restrictions on the use of the city water supply system for lawns and garden

sprinkling, irrigation, car washing, air conditioning, and other uses as specified by the City Manager's declaration.

The City Manager, or designee, may notify residents of water use restrictions by posting in the City Municipal Center, by publication in a newspaper of general circulation within the city, and by television and radio broadcast.

Subd. 3. Penalty. Failure to comply with restrictions or prohibitions imposed by this subsection shall result in a surcharge according to the following schedule:

<u>First violation of calendar year</u>	<u>Warning</u>
<u>Second violation of calendar year</u>	<u>\$25.00 Surcharge</u>
<u>Third violation of calendar year</u>	<u>\$50.00 Surcharge</u>
<u>Subsequent violations</u>	<u>\$100.00 Surcharge</u>

The City Manager, or designee, shall insert notice of the surcharge in the next water bill of the offending property. The property owner or violator must pay the surcharge upon payment of the water bill.

Subd. 4. Appeal. A property owner or violator may appeal the imposition of the surcharge by submitting a written notice of appeal to the City Manager within ten (10) days of the date of the water bill that includes the surcharge. Such notice must state the grounds for objecting to the surcharge. The City Manager, or designee, will issue a decision within ten (10) days of receipt of the appeal. A person may appeal the City Manager's decision in accordance with state law.

The City Council may certify an unpaid surcharge, together with penalties, to the County Auditor to be collected with other real estate taxes levied against the premises served.

SECTION 2. This Ordinance will be effective in accordance with Section 3.09 of the City Charter.

Passed by the City Council of the City of Richfield, Minnesota this 10th day of May, 2016.

Debbie Goettel, Mayor

ATTEST:

Elizabeth VanHoose, City Clerk

RESOLUTION NO. _____

**RESOLUTION APPROVING SUMMARY
PUBLICATION OF AN ORDINANCE AMENDMENT TO
SUBSECTION 710.29 OF THE RICHFIELD CITY CODE
PERTAINING TO WATER USE RESTRICTIONS**

WHEREAS, the City has adopted the above referenced amendment to the Richfield City Code; and

WHEREAS, the verbatim text of the ordinance is cumbersome, and the expense of publication of the complete text is not justified.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Richfield that the following summary is hereby approved for official publication:

**SUMMARY PUBLICATION
BILL NO. 2016-_____**

**AN ORDINANCE AMENDING SUBSECTION 710.29 RICHFIELD CITY
CODE PERTAINING TO WATER USE RESTRICTIONS**

On May 10, 2016, the Richfield City Council adopted an ordinance designated as Bill No. 2016-_____, the title of which is stated above. This summary of the ordinance is published pursuant to Section 3.12 of the Richfield City Charter.

The purpose of this ordinance is to establish permanent restrictions on sprinkling annually from May 1 to September 30 that include prohibiting watering/lawn irrigation between the hours of 11:00 AM and 4:00 PM daily and requiring property owners installing an automatic or underground irrigation system to install a rain sensor device and requiring property owners improving or extending an existing irrigation systems, where such improvement requires a plumbing permit, install a rain sensor device at the time of such improvements. The ordinance also establishes exclusions to the permanent restrictions on sprinkling, procedures for a water emergency, penalties for failure to comply with the restrictions or prohibitions imposed by the section, and procedures to appeal a penalty.

BE IT FURTHER RESOLVED, that the City Clerk is directed to keep a copy of the Ordinance in her office at City Hall for public inspection during normal business hours and to post a full copy of the Ordinance in a public place in the City for a period of two weeks. Copies of the ordinance are also available upon request by calling the Public Works Department at (612) 861-9170.

Adopted by the City Council of the City of Richfield, Minnesota, this 10th day of May, 2016.

Debbie Goettel, Mayor

ATTEST:

Elizabeth VanHoose, City Clerk